IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 8860 of 2005**

Between:

1 Dwarapureddy Venkata Rao, S/o. Late Sanyasi,
R/O. NEAR BUS STAND, Yellamanchilli, Visakhapatnam District.
2 Dwarapureddy Mahalakshmi, S/o. Late Sanyasi,
R/O. NEAR BUS STAND, Yellamanchilli, Visakhapatnam District.
3 Dwarapureddy Kapi Raju, S/o. Late Sanyasi,
R/O. NEAR BUS STAND, Yellamanchilli, Visakhapatnam District.
4 Dwarapureddy Narayanamma, W/o. Late Apparao,
R/O. NEAR BUS STAND, Yellamanchilli, Visakhapatnam District.

**.....** PETITIONERS

AND

1 The District Collector, Visakahaptnam District, Visakhapatnam.
2 The Mandal Revenue Officer, Yellamanchili, Visakahaptnam District.
3 Gram Panchayat, Yellamanchili, Yellamanchili Mandal, Visakahaptnam District., Rep. by its Secretary.

**.....**RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or direction, especially one in the nature of Writ of Mandamus declaring the notice 24-3-2005 issued by the Mandal Revenue Officer, Visakhapatnam and the consequential notice 12-4-2005 issued by the Gram Panchyat as illegal and void and directing the respondents herein to desist from acting thereon and pass such other order or orders as are deemed fit and proper.

**Counsel for the Petitioner: MR.VL.N.G.KMURTHY**

**Counsel for the Respondents 1 to 2 : GP FOR REVENUE**

**Counsel for the Respondent 3 : Mr. D. Srinivas**

**This Court at the admission stage made the following:**

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITION NO.8860 OF 2005**

**ORDER :**

This writ petition is filed questioning the show-cause notice dated 24-03-2005 issued by the second respondent – Mandal Revenue Officer, Yellamanchili.

It is stated that one Mr. Dwarapureddy Sanyasi, who is the father of the petitioner Nos.1 and 3 and husband of the petitioner No.2 and father-in-law of the petitioner No.4, was granted D-form patta in respect of the land to an extent of Ac.0-03 cents situated in Survey No.378/15 on 21-03-1972. It is also stated that during his lifetime, Mr. Dwarapureddy Sanyasi constructed a house in the said land and after his death, the petitioners have been in continuous possession and enjoyment of the same. However, on 24-03-2005, the second respondent issued the impugned show-cause notice stating that the petitioners have violated condition No.1 mentioned in the patta granted in favour of Mr. Dwarapureddy Sanyasi and calling upon them to show-cause within a period of three days therefrom as to why the said patta should not be cancelled. The said notice is under challenge in this writ petition raising various grounds including that the impugned notice issued by the second respondent is without jurisdiction. The petitioners contend that it is only the Government who can

resume the land on the ground of violation of any one of the conditions mentioned in the patta and therefore the second respondent is not competent to issue the impugned notice.

It is to be noted that the petitioners have already submitted an explanation dated 01-04-2005 in response to the impugned show-cause notice dated 24-03-2005.

Though the learned Counsel for the petitioners contended that consequent to the impugned notice, the third respondent has passed an order dated 2-4-2005 directing the petitioners to close their business, on a perusal of the notice dated 12-04-2005, it does not appear to be an order passed consequent to the impugned notice dated 24-03-2005. The proceedings dated 12-04-2005 were issued by the third respondent – Gram Panchayat independently informing the petitioners that they have been running the hotel without obtaining the permission of the Panchayat and that they are also letting out the drain water into the adjacent tank and therefore calling upon them to stop the same forthwith, failing which appropriate action will be initiated. If the petitioner is aggrieved, it is always open to the petitioner to seek redressal by working out the appropriate remedy as available under law as against the order dated 12-4-2005, but it is not a matter to be gone into in this writ petition.

In the circumstances, it is for the second respondent – Mandal Revenue Officer to consider all the objections raised by the petitioners and pass appropriate orders in accordance with law. The writ petition filed at this stage is premature and cannot be entertained.

The Writ Petition is accordingly disposed of with a direction to the 2nd respondent to consider the explanation dated 1-4-2005 submitted by the petitioners and to pass appropriate orders in accordance with law. Till such order is passed and is communicated to the petitioners, the respondents 1 and 2 are directed not to interfere with the possession of the petitioners in respect of the land in question.

Having regard to the facts and circumstances of the case, the petitioners are granted liberty to submit an additional explanation raising all the objections that are raised in

this writ petition. If any such additional explanation is filed within a period of two weeks from the date of receipt of this order, the second respondent is directed to consider the same before passing any final order in pursuance of the show-cause notice dated 24-03-2005.

The Writ Petition is accordingly disposed of. No costs.

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21st April, 2005.

Note:- CC by Monday.

(B/O)

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To

1 The District Collector, Visakahaptnam District, Visakhapatnam.
2 The Mandal Revenue Officer, Yellamanchili, Visakahaptnam District.
3 The Secretary, Gram Panchayat, Yellamanchili, Yellamanchili Mandal, Visakahaptnam District.

4 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad. (O.U.T.)

5 Two CD copies.